

Appl. No. 09/921,448  
Amdt. Dated: March 17, 2004  
Reply to Office Action of: 09/17/2003

**REMARKS**

In response to the office action, the Applicants have filed a request for continuing examination and submit herewith amendments to the claims for consideration by the Examiner.

Each of the independent claims has been amended to explicitly state the distinctions over the combination of art applied by the Examiner. As such, it is believed that the claims clearly and patentably distinguish over the art and are in condition for allowance.

The Examiner has rejected claims 1 and 3 through 5 under 35 U.S.C 102 on the basis of Jellinek. As previously noted, the Jellinek reference provides a chair in which the leg 23 is deployed whenever the seat supports an operator. Claim 1 has been amended to recite a brake operating mechanism that includes an actuator that is selectively operable by an operator supported by the seat to move the brake between first and second positions. Accordingly, pivotal movement of the arm relative to the base can be achieved with the operator supported on the seat. The reference to Jellinek clearly does not have such a brake operating mechanism that permits disengagement of the brake and pivotal movement of the arm whilst supporting an operator on the seat. Accordingly, claim 1 distinguishes over the reference as applied under 35 U.S.C. 102 and claims 3 through 5 that are dependent on claim 1 similarly distinguish over that reference.

The Examiner has rejected claims 6 through 12 on the basis of a combination of Jellinek and Farrar. As noted above, claim 1 has been amended to distinguish over Jellinek by reciting the brake operating mechanism and the features thereof. The reference to Farrar does not teach a brake that is moveable into and out of engagement with the ground as recited in claim 1. The only reference to a locking device taught by Farrar is the locking device between the arm and the hub that supports the arm but an equivalent structure can be found in Jellinek by use of the pin 18 in the hole 17. Farrar therefore cannot teach or suggest the modification of Jellinek to include the brake operating mechanism as recited since it has no such operating mechanism. The modification of Jellinek in light of the teachings of Farrar would simply be to remove the support 23 from the Jellinek reference. Accordingly, Jellinek when modified according to the teachings of Farrar, would not lead to or suggest the combination recited in claim 1 and claims 6 through 12 dependent thereon.

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The Examiner has further rejected claims 13 through 17 on the basis of references to Farrar in view of Locker. Although the Examiner recites Farrar in stating the objection, it is noted that in the body of the rejection under paragraph 6, the Examiner is referring to Jellinek. Since claim 13 depends upon claim 1 and the Examiner has rejected claim 1 on the basis of Jellinek but not of Farrar, the Applicants believe the Examiner intended to refer to a rejection under 35 U.S.C. 103(a) as Jellinek in view of Locker. On that basis, it is noted that Jellinek does not disclose the brake operating mechanism as recited in claim 1 and Locker is silent as to any form of such an arrangement. Locker is cited to show a lever but does not disclose or suggest the provision of the brake operating mechanism. Accordingly, claims 13 to 16 are believed to clearly and patentably distinguish over that combination.

In the event that the Examiner did intend to refer to Farrar in the rejection, it is noted that Farrar is entirely silent as to any form of ground engaging brake as recited in claim 1 and therefore, the combination of Farrar with Locker does not teach the invention claimed in claims 13 through 16.

Claim 17 is an independent claim that the Examiner has rejected on the basis of Jellinek and Locker. Claim 17 has been amended in a manner similar to claim 1 to distinguish over the reference to Jellinek and in combination with Locker does not, as discussed above, teach the provision of the brake operating mechanism. Accordingly, it is believed that claim 17 likewise distinguishes over the combination of Jellinek and Locker.

The Examiner has also rejected claims 1, 3, 4, 6 through 8, and 18 to 24 under 35 U.S.C in view of the references to DePolo and Edlinger. DePolo teaches a chair secured to a base and having an arm extending from the base. The chair is supported on the floor by a caster and relies upon the caster for vertical support. As such, the arm shown in DePolo is not cantilevered in the manner recited in the claims. To clarify this distinction, claims 1 and 18 have been amended to recite that the base provides the sole support of the arm and seat during rotation of the arm relative to the base. Such an arrangement is clearly not taught in DePolo where the caster provides such support. The Examiner has suggested that the teachings of Edlinger would render such a modification obvious. However, it is noted that Edlinger provides support in the form of

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wheels 11 as well as the brakes 13. Thus, Edlinger teaches it is possible to provide a brake to limit movement of the chair on its wheels. However, DePolo teaches the provision of the arm secured to a central base to limit movement. The arm effectively tethers the chair for movement within a particular radius from the base. There would, therefore, be no motivation to utilize a brake such as taught in Edlinger since movement of the chair beyond a particular confine is inhibited by the arm.

At best however, even if the combination suggested by the Examiner is made, the result would be the provision of a brake in addition to the caster in the reference to DePolo. Neither DePolo nor Edlinger either alone or in combination teach the provision of a cantilevered arm with a selectively engageable brake as recited in claims 1 and 18. As such, it is believed that those claims clearly and patentably distinguish over the combination made by the Examiner and are in condition for allowance.

The provision of the cantilevered arm with the selectively engageable brake permits free and uninhibited movement of the arm while supporting the operator and thereby ensures the ability to adjust the seat position regardless of obstacles that may be present on the floor. The provision of the brake that engages the ground not only inhibits movement, but also provides the support necessary when additional external forces are applied. Such a combination of features is neither suggested nor taught in any of the art and accordingly, allowance of the claims is respectfully requested.

Respectfully submitted,

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